IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE EIGHTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO : 24741 of 2000

Between:

M/S. RAJKAMAL POULTRIES, Rep. by its Managing Partner, Kanumuri Varahala Raju,
Ravada Village, Bhogapuram Mandalam,
Vijayanagaram District.

..... PETITIONER

AND

1 The COMMISSIONER COMMERCIAL TAXES, Government of A.P., Hyderabad.
2 The COMMERCIAL TAX OFFICER, Integrated Check Post, Bhoraj, Adilabad.
3 The COMMERCIAL TAX OFFICER, Check Post Ramabadrapuram, Vijayanagaram, District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue an appropriate Writ or direction, more particularly one in the nature of Writ of Mandamus declaring the collection of tax by the respondents at the checkpost in respect of the goods purchased by the petitioner from outside the state and meant for captive consumption, as illegal without jurisdiction and contrary to law in the facts and circumstances of the case and consequently direct the respondent to refund the illegal taxes collected at the check post from the Petitioner in respect of goods brought from outside the state and meant for captive consumption and pass such order or orders as may deem fit and proper in the facts & circumstances of the case.

Counsel for the Petitioner:MR.J.V.RAO

Counsel for the Respondent No.: SPL GP FOR TAXES

The Court made the following :

O r d e r: (Per BRSR, J)

The subject matter that arises for consideration in this writ petition is squarely covered by the decision rendered by a Division Bench of this Court in ***Ramanadh Poultry Farms V. Assistant Commercial Tax Officer***. The Division Bench disposed of similar writ petitions with the direction directing that the Officer in-charge of the check-post shall not collect any tax on the poultry feed or the ingredients of poultry feed brought from outside the State of Andhra Pradesh if the petitioners' representative or driver in-charge of the vehicle produces the relevant documents in support of the inter-State purchase from registered dealers. In case the check-post officer is not satisfied with the proof or that there are no requisite documents, a reasoned order should be passed by the authorities concerned.

However, it is made clear that such directions were subject to the condition of production of proof of registration as dealers. It is further clarified in the said judgment that such direction may be incorporated in the Judgment for the reason that in the absence of registration, it would be difficult to keep track of the transactions of the dealers concerned. As regards the tax already collected, it is open to the petitioners to file applications for refund before the concerned assessing officer.

A bear reading of the judgment would disclose that the directions issued thereunder are applicable in case of dealers and subject to production of proof of registration as dealer.

In the instant case it is not even averred in the affidavit filed in support of the writ petition that the petitioner is a dealer. In the circumstances, no direction as prayed for has to be issued in this writ petition.

The writ petition shall stand accordingly dismissed. No order as to costs.

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B.Sudershan Reddy, J.

8th June, 2005

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Ramesh Ranganathan, J.

grr